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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,174	05/24/2000	Ravi V. Condamoor	NH-2	5012
23933	7590	12/12/2003	EXAMINER	
STUART T AUVINEN 429 26TH AVENUE SANTA CRUZ, CA 95062-5319			POINVIL, FRANTZY	
		ART UNIT		PAPER NUMBER
				3628

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	licant(s) CONDAMOOR ET AL.
	09/578,174 Examiner Frantzy Poinvil	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 July 2003.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-28 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 25-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 25-28 are directed toward a computer program product comprising various means for creating values in an electronic trade. The Examiner notes that the claimed various means such as a trading agent means, value manager means, trade manager means and a net value generator means, a maximizer means and a transaction reporter means are not described in the specification. Applicant is reminded that all claimed elements must be described in the specification.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-24 are directed to a multi-party trading system whereby different entities such as trading agents representing trading partners in an electronic exchange. An entity such as a trade manager generates a net value as a difference of the buyer true values and seller true values. This net value is received by a revenue manager who allocates the net value among the trading partners representing buyers and sellers. The different entities disclosed in the specification do not appear to be computer-implemented codes or subroutines or modules or program codes. The different entities are merely entities including buyers and sellers who will eventually place trading elements in an electronic exchange.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are fond to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-24 do not recite any structure or functionality to suggest that a computer performs the recited claims.

3. Claims 1-28 are allowable over the art of record.
4. The following is an examiner's statement of reasons for allowance:

The prior art taken alone or in combination failed to teach or suggest a revenue manager, coupled to the trade manager to receive the net value, for allocating the net value among the trading partners representing the buyers and seller, whereby the net value is allocated among buyers and sellers taken in combination with a multi-party trading system as recited in independent claim 1.

The prior art taken alone or in combination failed to teach or suggest a cumulative net value being a difference between a buyer-sum of the true values from trade agents for buyers and a seller-sum of the true values from trade agents for sellers for the trading element modified by a combination of the attributes taken in combination with a computer-implemented method for conducting a trade as recited in independent claim 12.

The prior art taken alone or in combination failed to teach or suggest a net value generator means coupled to the trade manager means for generating a net value for each set of attributes, the net value being a difference of a buyer sum and a seller sum, the buyer sum being a sum of the true values from trading agents representing buyers, the seller sum being a sum of the true values from trading agents representing sellers, the buyer sum and the seller sum being evaluated for a specific set of the attributes taken in combination with a computer-program product as recited in claim 25.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Silverman et al EPA (0 407 026 A2) disclose a bidding system for automatically matching bids and offers. The system constantly displays the best inside price that is the highest value bid and the lowest value offer.

Tradeum, Inc., "Digital Marketplace Technology", February 200, discloses various trading and technologies whereby buyers and sellers profiles are stored and buyers and trading partners having controls over trading styles while balancing trading parameters.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday 7:00AM-5:30PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for Before Final actions and (703) 872-9327 for After Final actions.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
FRANTZY POINVIL  
PRIMARY EXAMINER

*4u 3628*

FP

September 20, 2003